

RICHARD SEGERBLOM, ESQ., Nevada Bar No. 1010
701 E. Bridger Ave., #520
Las Vegas, Nevada 89101
Telephone: (702) 388-9600
Facsimile: (702) 385-2909
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ELENA RODRIGUEZ-MALFAVON,

Plaintiff,

v.

CLARK COUNTY SCHOOL DISTRICT,
EDWARD GOLDMAN, and ANITA
WILBUR ,

Defendants.

Case No.: 2:12-cv-01673-APG-PAL

REPLY TO OPPOSITION TO
MOTION TO STRIKE
(ECF No. 127)

COMES NOW Plaintiff Elena Rodriguez-Malfavon, by and through her counsel of record, Richard Segerblom and replies to the Defendants' Opposition (ECF No. 129) to Motion to Strike (ECF No. 127). This reply is based on the pleadings and papers on file together with the attached memorandum of points and authorities.

DATED this 9th day of February, 2018.

/s/ Richard Segerblom, Esq.

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MEMORANDUM OF POINTS AND AUTHORITIES

**I. ENTERTAINING THE RENEWED MOTION FOR SUMMARY JUDGMENT
WILL UNNECESSARILY DELAY JUSTICE**

Plaintiff Rodriguez-Malfavon was demoted in 2011, seven years ago. This lawsuit was filed in 2012, six years ago. Unless a further appeal is filed this case should be resolved one way or the other this year.

However, a further appeal to the Ninth Circuit is clearly what the Defendants are contemplating. To that end, the Defendants articulated the basis for filing their renewed motion for summary judgment on page 5 of their opposition brief. “[A] district court order denying a motion for summary judgment pertaining to qualified immunity can be challenged immediately through an interlocutory appeal.” Clearly they intend to file another appeal to the Ninth Circuit if the Court denies their motion, thus adding years to Plaintiff Rodriguez-Malfavon’s resolution of her whistleblower case.

If the case had no merit the Ninth Circuit would not have deliberated and sent the case back for trial. Adding another 2 years at this point would be unnecessary and inhumane. If the Defendants truly wanted the issue of qualified immunity resolved they should have asked this Court to reconsider its Order before the first appeal was filed and briefed. That way the Ninth Circuit could have decided every issue the Defendants perceived during the first appeal.

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1 At the end of the day the Defendants virtually concede that they should have
2 requested leave to file a renewed motion but failed to do so. Having filed a rogue motion at
3 this late date with the intent to set up a further appeal and delay need not be countenanced by
4 the Court. Accordingly, the Plaintiff believes her Motion to Strike should be granted so the
5 parties can proceed to a trial on the merits, or possible settlement. Should the Plaintiff prevail
6 there will be plenty of time for the Defendants to file another appeal to the Ninth Circuit.

7 DATED this 9th day of February, 2018.

8
9 /s/ Richard Segerblom, Esq.

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Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of February, 2018, I did serve, via Case Management/Electronic Case Filing, a copy of the above and foregoing OPPOSITION TO RENEWED MOTION FOR SUMMARY JUDGMENT addressed to:

Ethan D. Thomas
LITTLER MENDELSON, P.C.
3960 Howard Hughes Parkway, Suite 300
Las Vegas, Nevada 89169
Attorneys for Defendant

/s/ Richard Segerblom, Esq.
RICHARD SEGERBLOM, ESQ.